

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Case No. CR-21-151-TDD
)
BILLY JAMES MENEES and)
ASHLEY DAWN MARIE SCHARDEIN,)
)
Defendants.)

ORDER

On February 23, 2023, a jury found Defendants Billy James Menees and Ashley Dawn Marie Schardein guilty of counts one and two of the Superseding Indictment—Child Abuse in Indian Country and Child Neglect in Indian Country. The Court is scheduled to sentence Ms. Schardein on July 24, 2024 at 10:00 A.M. and Mr. Menees on July 26, 2024 at 10:00 A.M. However, on July 18, 2024, the Tenth Circuit issued an unpublished order and judgment in *United States v. Shell*, No. 23-5086 (10th Cir. July 18, 2024). In *Shell*, the court reversed a child abuse conviction from the Northern District of Oklahoma in which the defendant was charged with violating Oklahoma state law. Specifically, the court held that “the assimilation of the assaultive provisions of Oklahoma’s child abuse statute via the [Assimilative Crimes Act] is inappropriate.” *Id.* at 10.

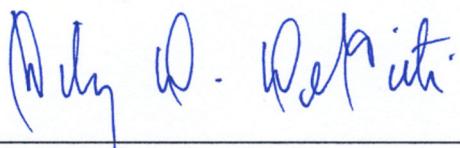
Currently before the Court is the parties’ Joint Motion for Continuance of Sentencing Hearings and Request for Further Briefing [Doc. No. 302]. The parties contend that the Tenth Circuit’s decision in *Shell* “has the potential to dramatically impact the Defendants’ cases before this Court for sentencing.” *Id.* at 2. Therefore, the parties request

a continuance of Defendants' sentencing hearings so the parties may "fully research the implications of the Tenth Circuit's Order." *Id.* Upon consideration, and for the reasons fully set forth in the Motion, the Motion is **GRANTED**.

IT IS THEREFORE ORDERED that Defendant Ashley Dawn Marie Schardein's sentencing set for July 24, 2024 at 10:00 A.M. and Defendant Billy James Menees' sentencing set for July 26, 2024 at 10:00 A.M. are **CONTINUED**, to be reset by further Court order.

IT IS FURTHER ORDERED that the parties shall, no later than August 9, 2024, file briefs addressing what impact, if any, the Tenth Circuit's order and judgment in *Shell v. United States*, No. 23-5086 (10th Cir. July 18, 2024) has on this case moving forward. Briefs shall comply with LCrR 12.1(e). Defendants may file a single, joint brief, should they so choose.

IT IS SO ORDERED this 19th day of July, 2024.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE